



The prorogation of Parliament

Emma Kilheeny explains how prorogation works, focusing on the dramatic events of September 2019

On 9 September 2019 prime minister Boris Johnson prorogued Parliament, which prevented MPs from scrutinising the government and taking over the agenda in the House of Commons in order to control the management of the Brexit process. However, on 24 September the UK Supreme Court ruled that Johnson's decision was unlawful, which resulted in the end of prorogation and the return of MPs to Parliament.

What is prorogation?

It is the formal mechanism to end a session of Parliament. There is nothing unusual about this: each autumn ministers ask the monarch to perform this 'prerogative act' and, usually, after a few days Parliament resumes with the Queen's Speech. During

the time between prorogation and the Queen's Speech, Parliament is suspended and all incomplete legislation that was in progress must be abandoned. This constitutional formality is usually uncontroversial, although governments can use it as a political tool to avoid scrutiny. Unlike a recess, which Parliament can control, prime ministers can prorogue Parliament without MPs' consent.

How did Johnson defend this action?

Johnson argued that Parliament was due to be prorogued and that this normally happens every autumn anyway: parliamentary sessions usually last 1 year. However, the parliamentary session which Johnson ended had been the longest since the English Civil War of 1642–51, to allow sufficient time for MPs to scrutinise Brexit legislation. It began in June 2017 following the general election. The only other recent exception was the 2010–12 Parliament, which lasted 707 days to provide the Conservative–Liberal

Democrat coalition government with added stability and the ability to legislate.

Johnson argued that the prorogation of Parliament was unrelated to Brexit and was intended to allow his government to set out a new programme of legislation. Moreover, he defended the action by stating that 3 of the weeks that Parliament will be prorogued are during the annual party conference season, when Parliament enters recess anyway. Therefore, MPs will only be absent for 4 more days than the recess that was already planned.

Why was this significant?

It was the longest prorogation since the English Civil War and, despite Johnson's claims, was done to prevent MPs from using the opportunity to legislate against Johnson's plans for a no-deal Brexit. The House of Commons Speaker John Bercow described Johnson's actions as a 'constitutional outrage' and stood down as Speaker from 31 October. In addition, Johnson chose to prorogue Parliament at the earliest opportunity (1.30 a.m. on 10 September) in order to prevent MPs from seizing the agenda and shaping the course of Brexit. In an unprecedented move, some MPs held up signs reading 'silenced'.

MPs had in fact already taken control of the Brexit agenda on 3 September when they voted 328–301 to force the government to extend the Brexit deadline for 3 months beyond 31 October 2019 to avoid a no-deal Brexit. Twenty-one Conservative MPs rebelled against the government in this vote. Johnson responded by sacking and removing the whip from them, meaning that they cannot stand as Conservative MPs at the next general election.

How did MPs respond?

Once the prorogation is over, Johnson will be forced to publish the secret details leading up to the decision to prorogue Parliament, after MPs defeated Johnson's government for the fourth time since he became prime minister, voting 311–302 before the final parliamentary session ended. The vote came about after

former Attorney General Dominic Grieve proposed a motion known as a humble address. MPs suspect the documents will show that Johnson misled the House of Commons and the Queen about his reason for proroguing Parliament and will reveal that the real reason was to prevent MPs from disrupting his Brexit plan. The role of his advisor Dominic Cummings will also be revealed.

What did the Supreme Court rule?

Johnson's prorogation was unlawful because it affected two fundamental principles of the UK constitution — government accountability and parliamentary sovereignty. Johnson was unjustifiable in his attempts to prevent Parliament from carrying out its constitutional functions, irrespective of the government's motive, because the length of the prorogation was abnormal and the effect on the functioning of democracy was extreme. The ruling ended the prorogation and MPs returned to Parliament.

Questions

- 1 To what extent does the prime minister's ability to prorogue Parliament undermine Parliament's ability to effectively scrutinise the executive?
- 2 To what extent is the UK constitution, and the use of prerogative powers, outdated and in need of reform?

Weblinks

Watch MPs protest at the prorogation of Parliament:

www.youtube.com/watch?v=HLVGHqc4uAA

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